

UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

IN RE: . Case No. 22-2606  
. .  
AEARO TECHNOLOGIES, LLC, .  
et al., . Everett McKinley  
. Dirksen Courthouse  
. 219 S. Dearborn St., Room 2722  
Debtor. . Chicago, IL 60604  
. .  
. April 4, 2023  
. . 1:19 p.m.  
. . . . .

TRANSCRIPT OF ORAL ARGUMENT  
BEFORE THE HONORABLE FRANK H. EASTERBROOK  
UNITED STATES SEVENTH CIRCUIT JUDGE  
and THE HONORABLE DIANE P. WOOD  
UNITED STATES SEVENTH CIRCUIT JUDGE  
and THE HONORABLE DAVID F. HAMILTON  
UNITED STATES SEVENTH CIRCUIT JUDGE

APPEARANCES:

For the Appellants: Clement & Murphy, PLLC  
By: PAUL D. CLEMENT, ESQ.  
706 Duke Street  
Alexandria, VA 22314  
  
For Amicus Curaie U.S. Department of Justice  
Trustee: By: SEAN JANDA, ESQ.  
950 Pennsylvania Avenue N.W.  
Washington, DC 20530  
  
For Appellees Official Kellogg, Hansen, Todd, Figel &  
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Creditors: By: DAVID CHARLES FREDERICK, ESQ.  
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1 THE COURT: -- is the best you can say.

2 MR. CLEMENT: Yeah, I mean, look, I say you applied  
3 in the sense that you took them seriously and found them  
4 inapplicable on the facts there, and so to me that is -- that's  
5 not just dictum. I also think, for what it's worth, that even  
6 if you want to be a pure textualist, the thrust of A.H. Robins  
7 and the thrust of the first exceptions this Court has  
8 recognized is the idea that when you have a real party in  
9 interest, that's still within essentially the text, and --

10 THE COURT: But, you know, what I'm having -- well, I  
11 have a number of problems with your approach, but one of them  
12 is how you distinguish the any regular old case of joint and  
13 several liability from this case. We all certainly understand  
14 that 3M and Aearo are very closely aligned in this litigation,  
15 but the automatic stay is supposed to be automatic. You're  
16 supposed to just see it. It happens. You're not supposed to  
17 have 25 hearings. So, I just don't see how, unless you're  
18 going to say the automatic stay applies to everybody with joint  
19 and several liability, how your position can hold.

20 MR. CLEMENT: So, I would say -- I obviously wouldn't  
21 say it applies to everybody. I would say that this is --

22 THE COURT: Because you can't -- because, I mean, no  
23 one says that.

24 MR. CLEMENT: Of course. Of course. But, this seems  
25 to be, you know, a truly sort of unique case. This isn't just